

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #7	CCRB Case #: 201809917	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 11/29/2018 11:05 AM	Location of Incident: East Broadway between Market Street and Catherine Street	Precinct: 05	18 Mo. SOL 5/29/2020	EO SOL 1/13/2021	
Date/Time CV Reported Thu, 11/29/2018 4:28 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 11/29/2018 4:28 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Andrew Buck	15437	927983	005 PCT
2. POM Steven Schwartz	06532	957145	005 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Chiho Chan	9204	965975	REC TNG

Officer(s)	Allegation	Investigator Recommendation
A.POM Andrew Buck	Abuse: Police Officer Andrew Buck stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Steven Schwartz	Abuse: Police Officer Steven Schwartz stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Andrew Buck	Discourtesy: Police Officer Andrew Buck spoke discourteously to § 87(2)(b)	
D.POM Andrew Buck	Abuse: Police Officer Andrew Buck threatened to arrest § 87(2)(b)	
E.POM Steven Schwartz	Abuse: Police Officer Steven Schwartz threatened to arrest § 87(2)(b)	
F.POM Andrew Buck	Abuse: Police Officer Andrew Buck threatened to arrest § 87(2)(b)	
G.POM Steven Schwartz	Abuse: Police Officer Steven Schwartz threatened to arrest § 87(2)(b)	
H.POM Andrew Buck	Off. Language: Police Officer Andrew Buck made remarks to § 87(2)(b) based upon ethnicity.	
I.POM Andrew Buck	Abuse: Police Officer Andrew Buck failed to provide § 87(2)(b) with a business card.	
J.POM Steven Schwartz	Abuse: Police Officer Steven Schwartz failed to provide § 87(2)(b) with a business card	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On November 29, 2018, § 87(2)(b) called the CCRB and filed this complaint.

On November 29, 2018, at approximately 11:05 a.m., in the vicinity of East Broadway between Market Street and Catherine Street in Manhattan, Police Officer Andrew Buck and Police Officer Steven Schwartz of the 5th Precinct, stopped § 87(2)(b) who was driving her boyfriend's car, PO Max Cheung of the 5th Precinct. (**Allegation A and B: Abuse of Authority, § 87(2)(g)**). The vehicle had a NYPD placard on the dashboard. When the officers approached § 87(2)(b) in the vehicle, PO Buck allegedly asked § 87(2)(b) "What the fuck are you doing?" and told § 87(2)(b) to, "Shut the fuck up right now" when she attempted to ask why she was being stopped (**Allegation C: Discourtesy, § 87(2)(g)**). PO Buck then allegedly said, "You're not a police officer. You are impersonating a cop, you can be arrested" (**Allegation D: Abuse of Authority, § 87(2)(g)**). Immediately after, PO Schwartz allegedly said, "You know we can take you in and lock you up right now" (**Allegation E: Abuse of Authority, § 87(2)(g)**). When § 87(2)(b) explained that she was driving her boyfriend's car, PO Buck allegedly said, "You need to shut the fuck up right now or I will lock you up" (**Discourtesy, subsumed in Allegation C**) (**Allegation F Abuse of Authority, § 87(2)(g)**). When § 87(2)(b) asked why she had been pulled over, PO Schwartz allegedly said, "You need to shut up right now and stop talking back to us. Do you want to be arrested?" (**Allegation G Abuse of Authority, unsubstantiated**). Before letting § 87(2)(b) off with a warning, PO Buck allegedly said, "Learn how to drive you Chinese woman" (**Allegation H: Offensive Language, § 87(2)(g)**). PO Buck and PO Schwartz failed to provide § 87(2)(b) with Right To Know Act Cards (**Allegations I and J, § 87(2)(g)**). No arrests were made and no summonses were issued.

§ 87(4-b), § 87(2)(g)

There is no video evidence regarding this complaint.

Findings and Recommendations

Allegation A - Abuse of Authority: Police Officer Andrew Buck stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B – Abuse of Authority: Police Officer Steven Schwartz stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) (Board Review 01) testified that she was driving to an appointment when she observed the officers driving behind her. § 87(2)(b) pulled over to let the officers pass, but they stopped right behind her. § 87(2)(b) did not know that she was being pulled over because she saw no lights or sirens. § 87(2)(b) could have been changing the radio station at the time but did not violate any traffic laws and did not know why she had been stopped at the end of the interaction. § 87(2)(b) was not issued a summons.

PO Buck (Board Review 02) testified that he and PO Schwartz were parked in their car on the corner of Forsyth Street and East Broadway when he observed § 87(2)(b) make a right turn in front of an elderly man in a crosswalk. PO Buck and PO Schwartz both decided to

stop § 87(2)(b) for failing to yield at a cross walk. § 87(2)(b) stopped and PO Buck and PO Schwartz approached her vehicle. After PO Buck obtained § 87(2)(b)'s documents and returned to his vehicle, he looked at the registration and observed that the vehicle belonged to one of his coworkers, PO Cheung from the 5th Precinct. Upon this observation, PO Buck decided that he was going to give § 87(2)(b) a courtesy. PO Buck did not inform § 87(2)(b) why she had been stopped.

§ 87(2)(g)
PO Schwartz observed § 87(2)(b) make a right turn in front of an elderly man who was in the crosswalk and had the right away. After stopping § 87(2)(b) PO Schwartz, PO Buck, and PO Chan approached her vehicle. After PO Buck obtained § 87(2)(b)'s documents, the officers returned to their vehicle. Approximately two minutes later, PO Schwartz and PO Buck returned to § 87(2)(b)'s vehicle and PO Buck issued § 87(2)(b) a warning based on his discretion.

PO Chan (Board Review 04), who was a Probation Officer at the time of the incident, testified that he did not see § 87(2)(b) make an improper turn and did not recall the exact reason as to why she was stopped. PO Chan approached the vehicle with PO Buck and PO Schwartz but did not recall if PO Buck or PO Schwartz explained to § 87(2)(b) why she had been stopped. PO Buck obtained § 87(2)(b)'s documents and the officers returned to their vehicle. PO Buck ran § 87(2)(b)'s documents and recognized the name, PO Max Cheung, on the registration. PO Buck and PO Schwartz told PO Chan to wait in the car while they returned the documents to § 87(2)(b) and that they were not going to issue her a summons.

§ 87(2)(g)
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§ 87(2)(g)

Allegation C- Discourtesy: Police Officer Andrew Buck spoke discourteously to § 87(2)(b)

Allegation D- Abuse of Authority: Police Officer Andrew Buck threatened to arrest § 87(2)(b)

Allegation E- Abuse of Authority: Police Officer Steven Schwartz threatened to arrest

§ 87(2)(b)

Allegation F- Abuse of Authority: Police Officer Andrew Buck threatened to arrest § 87(2)(b)

Allegation G- Abuse of Authority: Police Officer Steven Schwartz threatened to arrest

§ 87(2)(b)

Allegation H- Offensive Language: Police Officer Buck made remarks to § 87(2)(b) based upon ethnicity.

§ 87(2)(b) (Board Review 01) testified that she said “Hi, officer,” to PO Buck from her window when he, PO Schwartz, and PO Chan initially approached her vehicle. PO Buck allegedly responded, “What the fuck are you doing?” § 87(2)(b) responded, “Well I am not sure what I did can you explain?” PO Buck allegedly said, “You need to shut the fuck up right now.” PO Buck walked to the front of the car and observed a police placard on the dashboard and said, “You’re not a police officer, you are impersonating a cop, you can be arrested.” PO Schwartz then allegedly said, “You know we can lock you up right now.” When § 87(2)(b) explained that

the vehicle belonged to her boyfriend, § 87(2)(b) and that she did not know the plaque was there, PO Buck said, “You need to shut the fuck up right now or I will lock you up.” When § 87(2)(b) asked again why she had been pulled over PO Schwartz said, “You need to shut up right now and stop talking back to us. Do you want to be arrested?” § 87(2)(b) did not make any further statements. PO Buck asked § 87(2)(b) for her license and registration and she produced the documents. PO Buck, PO Schwartz, and PO Chan returned to their vehicle. Once PO Buck and PO Schwartz returned to her car and PO Buck gave back her documents, he allegedly said, “Learn how to drive you Chinese woman.” § 87(2)(b) retrieved her license and registration from the dashboard and drove away.

PO Buck (Board Review 02) stated that before he reached § 87(2)(b)'s vehicle, he noticed a police placard on the dashboard. Once he got to her window, PO Buck asked § 87(2)(b) if she was an officer. PO Buck denied saying, “What the fuck are you doing?” § 87(2)(b) paused and laughed. PO Buck asked her again if she was an officer. § 87(2)(b) said, “My friend is.” PO Buck denied telling § 87(2)(b) to “Shut the fuck up right now.” PO Buck ordered § 87(2)(b) to remove the placard from her dashboard because it was department property and he informed her that she could be arrested for possession of a placard. PO Buck ordered § 87(2)(b) to produce her documents twice before she did so. After obtaining her documents, PO Buck returned to his vehicle where he recognized the name on the registration and used his discretion to not issue § 87(2)(b) a summons. PO Buck stated that once he returned to § 87(2)(b)'s vehicle, he placed her license and registration on the dashboard and walked away. He denied that he ever said, “Learn how to drive you Chinese woman,” to § 87(2)(b).

PO Schwartz (Board Review 03) testified that as he and PO Buck approached § 87(2)(b)'s vehicle, he heard PO Buck ask for her license and registration. PO Schwartz denied that he or PO Buck asked § 87(2)(b) “What the fuck she was doing,” nor did he or PO Buck tell her that she “needed to shut the fuck up right now.” After PO Buck asked § 87(2)(b) for her license and registration three more times, PO Schwartz said, “If you do not produce your documents, you can be brought back to the Precinct.” PO Schwartz explained that it is protocol for officers to bring civilians back to the Precinct if they do not produce their information. PO Schwartz did not recall observing a police plaque in the front of § 87(2)(b)'s vehicle nor did PO Buck mention it to him. PO Schwartz denied threatening to lock up § 87(2)(b) at any point. PO Buck obtained § 87(2)(b)'s documents and returned to his vehicle with PO Schwartz and PO Chan. PO Buck decided to use his discretion and issue § 87(2)(b) a warning. PO Buck and PO Schwartz returned to § 87(2)(b)'s vehicle. PO Schwartz stood at the back of the vehicle while PO Buck handed the documents back to § 87(2)(b). PO Schwartz did not see § 87(2)(b)'s face when PO Buck gave the documents back to her, but he observed PO Buck's demeanor to be calm. He did not hear PO Buck or § 87(2)(b) make any further statements.

PO Chan (Board Review 04) stated that once he approached the vehicle, PO Buck observed the police plaque and asked § 87(2)(b) if she was on the job. § 87(2)(b) responded, “No, I am driving my friend's car.” PO Buck then asked about the parking plaque and told her to put it away. PO Buck and PO Schwartz did not say, “What the fuck are you doing?” to § 87(2)(b) when PO Chan was present. PO Chan did not remember if PO Buck or PO Schwartz ever told § 87(2)(b) to “shut the fuck up right now.” PO Buck and PO Schwartz asked § 87(2)(b) approximately two more times to put the plaque away or she could be charged with impersonation and § 87(2)(b) complied. PO Buck asked § 87(2)(b) for her license and registration and she produced her information. After obtaining her documents, PO Chan, PO Buck, and PO Schwartz returned to their vehicle. After looking at her documents, PO Buck

recognized the name on the registration and told PO Chan that they were not going to issue § 87(2)(b) a summons. PO Chan waited in the car while PO Buck and PO Schwartz returned to § 87(2)(b)'s vehicle.

§ 87(2)(g)

It is undisputed that § 87(2)(b) was driving with a NYPD police placard on the dashboard of her vehicle. § 87(2)(b) stated that she had no knowledge of the NYPD placard on the dashboard of her vehicle. She testified that once it was brought to her attention by PO Buck, she removed it, and PO Buck threatened to arrest her for possession of a NYPD placard. PO Buck acknowledged that he asked § 87(2)(b) to remove the placard from her dashboard because it was technically department property and that she could be arrested for falsely using a placard.

New York Administrative Code, Section 14-108 states that unlawful use of official police cards, without permission of the Police Commissioner, is punishable by a fine or imprisonment or both. A police card is defined as a plate or official department identification card, working press card, emergency service card or any other official card issued by the department (Board Review 09).

§ 87(2)(g)

NYPD Patrol Guide, Section 209-09 states that police officers may remove violator to the command for investigation if doubt concerning identity exists (Board Review 10).

§ 87(2)(g)

In regard to § 87(2)(b)'s allegations that PO Buck told her that she would be arrested if she did not shut the fuck up and that PO Schwartz told her that she would be arrested if she did not shut up, the officers denied saying this or even describing her in a way that would have required them to quiet her down. § 87(2)(g)

§ 87(2)(g)

Allegation I- Abuse of Authority: Police Officer Andrew Buck failed to provide § 87(2)(b) with a business card.

Allegation J- Abuse of Authority: Police Officer Steven Schwartz failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) (Board Review 01) did not have the business cards of PO Buck and PO Schwartz when initially filing this complaint.

PO Buck (Board Review 02) stated that he did not provide § 87(2)(b) with a business card because he had run out of them prior to this encounter and that she did not ask for one.

PO Schwartz (Board Review 03) did not give § 87(2)(b) a business card because he ran out of them before the encounter. PO Schwartz believed PO Buck had business cards on his person at that time.

NYPD Patrol Guide, Procedure 203-09 states uniformed members of the service are to offer member of public a generic RTKA business card with identification information written down legibly, if supply of pre-printed RTKA business cards becomes depleted upon conclusion of law enforcement activities, except when a summons is issued or an arrest is made, or exigent circumstances are present. Allow member of the public ample time to write down identification information if general RTKA card become depleted (Board Review 05).

§ 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB histories

- This is the first complaint to which § 87(2)(b) has been a party (Board Review 07).
- PO Buck has been a member-of-service for 17 years and has been a subject in four complaints and eleven allegations, none of which were substantiated. § 87(2)(g)
- PO Schwartz has been a member-of-service for four years and has been a subject officer in three complaints and seven allegations, none of which were substantiated.

§ 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A notice of claim has been to the New York City Office of Comptroller and will be added to the case file upon receipt.
- § 87(2)(b)

Team: 7

Investigator: _____
Title/Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date